

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to Figures 12 and 13. These sheets replace the previous sheets, including Figures 12 and 13, submitted with the Response to the Notice to File Missing Parts filed November 10, 2004. Figures 12 and 13 now include reference character 336 inadvertently left off. No new matter is added by Figures 12 and 13, which is supported in the specification as originally filed.

Attachment: Replacement Sheets (2 sheets)

Annotated Sheets Showing Changes (2 sheets)

REMARKS / ARGUMENTS

I. Introduction

The present Amendment is in response to the Office Action mailed December 23, 2005. The Office Action indicated that claims 1-31 were pending in the application. Applicant respectfully brings to the Examiner's attention that the present patent application was filed with 40 claims. Applicant paid the additional fees for these claims. There have been no other substantive actions. Therefore, the application presently had claims 1-40 pending.

The Office Action rejected various claims based on nonstatutory obviousness type double patenting. In addition, the Office Action raised various rejections to the pending claims over the art based on 35 U.S.C. § 102. In the present Amendment, claims 1, 2, 6-10, 12, 21, 22, 32, 34-39 are amended, claims 5, 11, 26, 28 and 40 are cancelled, and new claims 41-45 have been added. As a result, claims 1-4, 6-10, 12-25, 27, 29-39 and 41-45 are now pending in view of the above amendments. In addition, Applicant has amended the specification and amended Figures 12 and 13. Applicant respectfully submits that the amendments to the specification and to the drawings are based on the specification as originally filed and that such amendments do not introduce new matter.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Applicant does not admit any characterizations of the cited art not specifically addressed herein and Applicant reserves the right to present arguments at a future time if necessary. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

II. Objections to the Drawings

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. § 1.84(p)(5) as not including a reference sign for support rods 336 mentioned in the description. Applicant respectfully submits that the support rods 336 are shown in Figure 13 of sheet 12 of the annotated sheets filed November 10, 2004, but the reference character was inadvertently left off of the Replacement Sheet filed the same day. For clarity, reference character 336 has also been added to Figure 12.

Accordingly, Applicant has revised Figures 12 and 13 to include the reference character 336, as discussed above in the "AMENDMENTS TO THE DRAWINGS" section of this response. Applicant respectfully requests withdrawal of the objection to the drawings.

III. Obviousness-Type Double Patenting Rejection

In the Office Action claims 1-3, 8, 9, 11, 12, 18, 20-23, and 31 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 14, 14, 18, 19, 23-25 of co-pending Application Serial No. 10/216,496 (which has since issued as US Patent No. 6,978,496 B2).

The Office Action also rejected claims 1, 8-10, 12, 17-19, 21, 22, and 28-30 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 43-45 and 47 of US Patent No. 6,929,190 B2).

In light of the above-referenced amendments to the claims, Applicant believes that the present invention is patentably distinct from the cited patents and that the nonstatutory obviousness-type double patenting rejections are improper. Applicant respectfully submits that the claims as amended are neither disclosed nor suggested by United States Patent Nos. 6,978,496 or 6,929,190. Accordingly, Applicant requests that the rejection be withdrawn.

IV. Rejections under 35 U.S.C. § 102

In the Office Action claims 1-31 were rejected under 35 U.S.C. § 102 as being anticipated by United States Patent No. 4,550,689 issued to Wolter ("the Wolter patent"). As previously mentioned, the present application was filed with 40 claims. It is unclear to Applicant whether claims 32-40 were also rejected. If claims 32-40 were allowable, Applicant requests that the Examiner make Applicant aware of this fact.

The Wolter patent discloses a gas instantaneous water heater in which water passing through the coils 31, 32, 33 and 34 are heating by gas nozzles 24. *See* Col. 5, ll. 25-43. More specifically, the water heater includes gas nozzles 24 which are shaped as cylindrical domes (col. 5, ll. 15-16), and serially connected coils. Col. 5, ll. 31-32. "Three of the coils 31, 32, and 33 are wound around and above the nozzles of the gas jets, while the fourth coil 34 extends over the

top of all three coils." Col. 5, ll. 35-18. The water heater disclosed in the Wolter patent is initiated by switch 53.

Claim 1

Claim 1, as amended and presented herein, recites a portable water heater that includes at least one fuel burner and at least one heat transfer conduit. Each fuel burner is configured to produce heat into the housing as fuel is burned. Claim 1 recites that each fuel burner is "independently operable" and "entirely outside each of the at least one heat transfer conduit." The Wolter patent neither teaches nor suggests that the gas nozzles 24 are "independently operable" as recited in claim 1. Instead, the Wolter patent teaches a device that is operated using a "electric faucet, a separate switch, or water pressure drop switch 53." Col. 7, ll. 59-61. Likewise, the heater of the Wolter patent is turned off by "deactivating the electric faucet, or flipping the separate switch." Col. 8, ll. 19-21. There is no indication that only one of the gas jets can be turned on without turning on the others. Further, the Wolter patent does not disclose a fuel burner that is "entirely outside each of the at least one heat transfer conduit." In fact, the Wolter patent discloses just the opposite by stating that "[t]hree of the coils 31, 32, and 33 are wound around and above the nozzles of the gas jets." Col. 5, ll. 35-18 (emphasis added).

Accordingly, for at least these reasons, Applicant submits that claim 1 overcomes the cited art and is in condition for allowance. The dependent claims 2-11 and new dependent claims 41-43 also overcome the cited art for at least the same reasons.

Claim 12

Claim 12, as amended and presented herein, likewise expressly requires that the fuel burner is "entirely outside of the coiled tube" and that the fuel burner is "positioned such that the flame of the fuel burner is substantially perpendicular to the coiled tube being directly heated." As previously stated, the Wolter patent does not teach nor suggest that the fuel burner is "entirely outside the coiled tube." Further, as illustrated in Figure 1 of the Wolter patent, the flame of gas nozzles 24 is parallel to the coils 31, 32 and 33 which are being directly heated as opposed to "substantially perpendicular to the coiled tube being directly heated" as required by claim 12. While the gas jets are entirely outside of coil 34, the Wolter patent expressly states that coil 34 is being heated by "residual heat rising from each of the coils and from each of the gas nozzles."

Col. 5, ll. 38-39 (emphasis added). Therefore, coil 34 is not being directly heated by the fuel burner as required.

Accordingly, for at least these reasons, Applicant submits that claim 12 overcomes the cited art and is in condition for allowance. The dependent claims 13-20 and new dependent claim 43 also overcome the cited art for at least the same reasons.

Claim 21

Claim 21, as amended and presented herein, likewise expressly requires that the fuel burner is "entirely outside of the heat transfer conduit." In addition, the fuel burner is adjustable or "incrementally operable." As previously discussed, the Wolter patent does not disclose a device in which the fuel burner is "entirely outside the heat transfer conduit." Further, the Wolter patent neither teaches nor suggests that the gas nozzles 24 are adjustable or "incrementally operable" as recited in claim 21. Instead, the Wolter patent teaches a device that is operated using a "electric faucet, a separate switch, or water pressure drop switch 53." Col. 7, ll. 59-61. Likewise, the heater of the Wolter patent is turned off by "deactivating the electric faucet, or flipping the separate switch." Col. 8, ll. 19-21. The heater in the Wolter patent is either on or it is off.

Accordingly, for at least these reasons, Applicant submits that claim 21 overcomes the cited art and is in condition for allowance. The dependent claims 22-31 and new dependent claim 45 also overcome the cited art for at least the same reasons.

Claim 32

Claim 32, as amended and presented herein, recites a portable water heater that includes a fuel burner configured to produce heat into the housing as fuel is burned where each fuel burner is "independently operable" and "entirely outside of each the coiled tube." Further, claim 32 requires "at least one fuel burner placed in direct thermal communication with each of the at least one heat transfer conduit." As discussed relative to claim 1, the Wolter patent does not teach or suggests that the gas nozzles 24 are "independently operable" as recited in claim 32. The gas jets in the heater disclosed in the Wolter patent are not manually adjustable or such that only one of the jets is operated at a time. Accordingly, the Wolter patent neither teaches nor

suggests a device in which the gas jets are "independently operable" and "entirely outside of each coiled tube." Further, the Wolter patent does not disclose or suggest a heater where the gas nozzles 24 are in "direct thermal communication with each of the at least one heat transfer conduit." As discussed, relative to claim 12, coil 34 of the Wolter patent is heated by "residual heat rising from the coils and from each of the gas nozzles" rather than "direct thermal communication" as required by claim 32.

Accordingly, for at least these reasons, Applicant submits that claim 32 overcomes the cited art and is in condition for allowance. The dependent claims 33-40 also overcome the cited art for at least the same reasons.

In sum, Applicant believes that the prior art of record has been overcome and that the rejections should be withdrawn.

V. Conclusion

Applicant respectfully submits that claims 1-4, 6-10, 12-25, 27, 29-39 and 41-45, as amended and presented herein are in a condition for allowance. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 23rd day of June, 2006.

Respectfully submitted,



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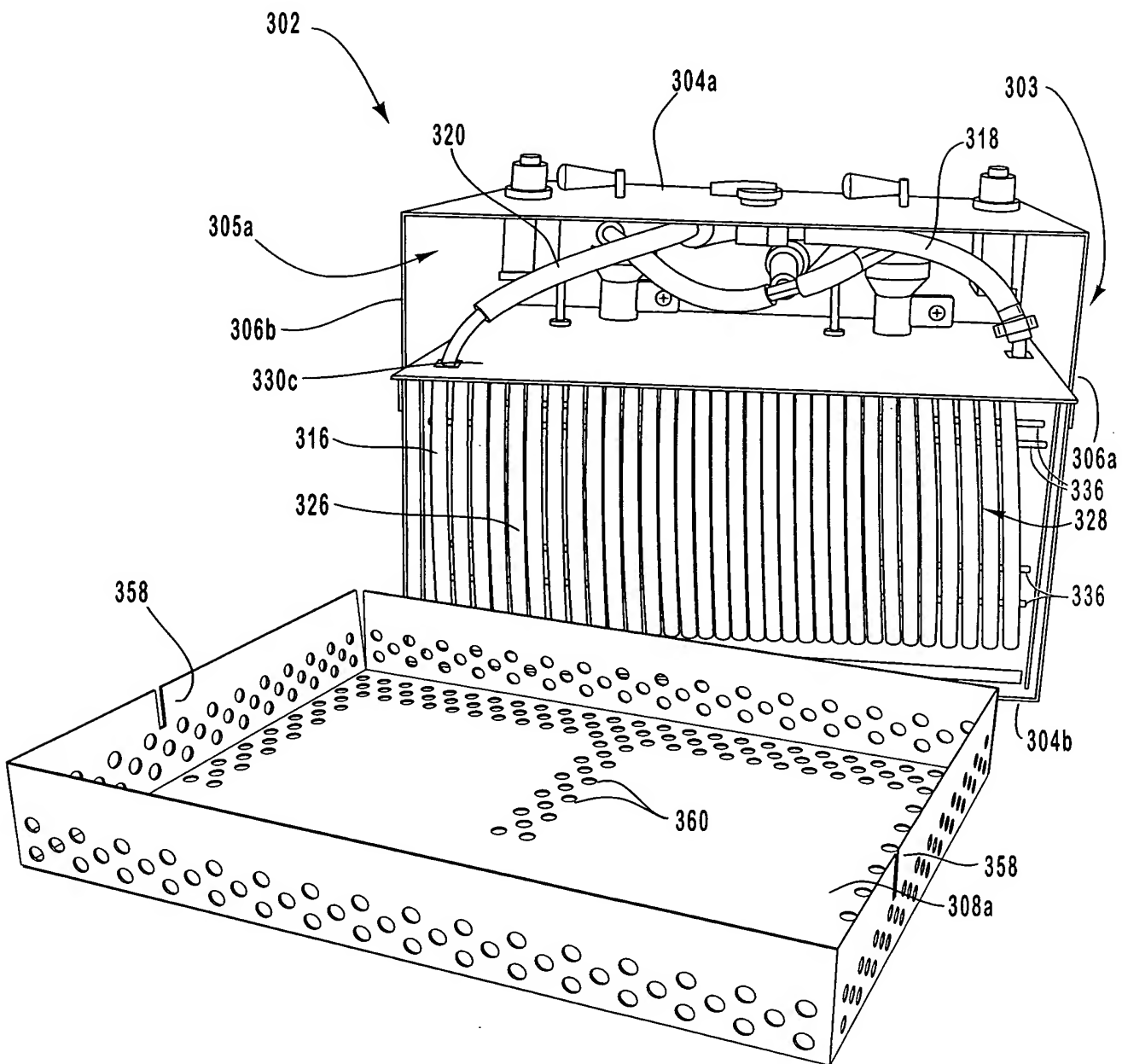


FIG. 12

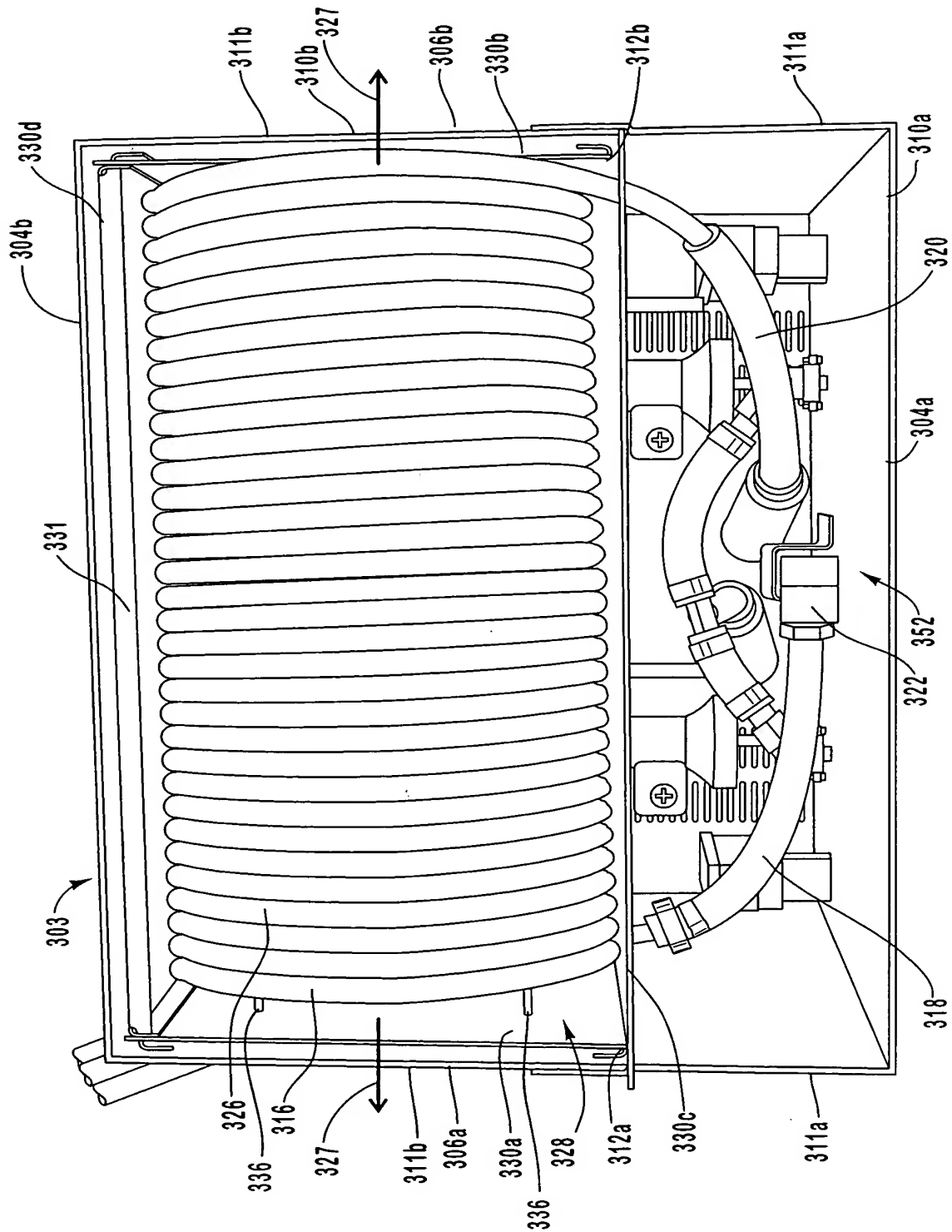


FIG. 13